

A Judicial Case Study on Inheriting Membership Shares in Rural Collective Economic Organizations - An Empirical Analysis of 132 Judgment Documents

Zhihao Sun

School of Law, Anhui University of Finance and Economics, Bengbu 233000, China.

Abstract

The government Decision on Several Major Issues Concerning Comprehensive Deepening of Reform stated that the shares of collective assets should have the right of inheritance, thus bringing the issue of inheritance of shares in rural collective economic organizations into public view. In 2016, the government issued the Opinion on Steadily Advancing the Reform of the Collective Property Rights System in Rural Areas, which encouraged localities to carry out practical exploration of inheritance of shares in rural collective economic organizations. Since then, numerous practical cases concerning inheritance of shares in rural collective economic organizations have emerged across the country, but because of the delay in legislation, different standards have been applied in handling related issues in different places, resulting in a large number of "same case but different judgments." Through a comparative study of rural collective economic organization theory and the collection of 132 civil judgments involving inheritance of shares in rural collective economic organizations from various places for empirical research, it was found that the scope of heirs was unclear, the proportion of non-collective members who could inherit was unclear, and the procedures for inheritance were unclear. Therefore, this study aims to provide judicial application suggestions for clarifying the scope of heirs, clarifying the proportion of non-collective members who could inherit, and clarifying the procedures for inheritance, in order to provide some reference for future judicial practice.

Keywords

Rural Collective Economic Organizations; Share Inheritance; Collective Members.

1. Introduction

After entering the 21st century, the external environment faced by rural areas has undergone profound changes, and the rapid development of the rural collective economy has played an important role in promoting rural revitalization and achieving common prosperity. At the same time, the problem of the transfer of the shares of the members of the rural collective economic organizations has become increasingly prominent, and the dispute about the succession of the shares of the members is particularly prominent. Somebody proposed to "protect the rights of farmers as members of collective economic organizations, actively develop farmers' stock cooperation, and grant farmers the rights of ownership, income, paid withdrawal, mortgage, guarantee, and inheritance of collective assets." The idea of quantifying the share of collective assets has been put forward, and the right of inheriting the share of collective assets has been clarified. In 2014, the former Ministry of Agriculture and other three departments issued the "Reform pilot plan for Actively developing farmers' share Cooperation to give farmers the right to share collective assets" clearly pointed out that "focus on exploring the rules for inheriting collective assets shares of people who have the legal heir qualification but are not members of collective economic organizations, as well as the relationship between heirs and collectibles

and the impact on the community nature of rural collective economic organizations." " The Opinions on Steadily Advancing the Reform of the Rural Collective Property Rights System issued by Officials in 2016 clearly stipulates that "farmers' rights to share collective assets are guaranteed, farmers are granted the right to inherit shares of collective assets, and measures for farmers to inherit shares of collective assets are formulated." The Strategic Plan for Rural Revitalization (2018-2022) issued by the officials in 2018 calls for "improving farmers' ownership of collective assets." Succession and other powers and management methods." It can be seen from the above documents that the shares of the members of the rural collective economic organizations clearly have the right to be inherited.

Under the background of common prosperity, the rural collective economic organization is an important part of China's rural economy, and the inheritance of the share of the rural collective economic organization members is related to the vital interests of each collective member. In 2017, the original General Provisions of the Civil Law added the legal person of the rural collective economic organization as a special legal person, which is the construction of our legislation and has special characteristics. The particularity of rural collective economic organizations determines the particularity of its members' shares, and the two jointly determine the particularity of members' share inheritance, which then brings a series of problems to be solved urgently. Although succession is one of the contents of the reform, there is no uniform provision for it. In practice, it is usually determined by the constitution of the collective economic organization or the resolution of the members, because there is no uniform standard, resulting in great controversy from all walks of life. Obviously, the current law still has no clear provisions on the inheritance of the shares of members of rural collective economic organizations. As a result, there are many disputes about the inheritability of rural collective equity in academic theory, local practice and judicial judgment. Therefore, this paper collects 132 relevant cases of judgment and analyzes the problem of share inheritance of members of rural collective economic organizations, in order to help judicial practice and make contributions to promoting the unification of judicial judgment and the modernization of legal governance capacity in China.

2. The definition and inheritance particularity of rural collective economic organization members' share

2.1. The definition of the share of members of rural collective economic organizations

The share of members of rural collective economic organizations is a collection of shares owned by collective economic organizations in a common form. When members of a collective organization want to dispose of shares, they should follow the system formulated by the collective economic organization to which they belong and cannot dispose of their shares at will.[1] The capital basis of the shares of members of rural collective economic organizations is collective assets, collective resources and collective funds, etc. According to the shares acquired, collective members can enjoy the rights of possession, income, paid withdrawal, mortgage, guarantee and inheritance. Compared with the equity of general industrial and commercial enterprises, the shares of members of rural collective economic organizations have special status in the acquisition of original shares, and they must be members of the collective in order to obtain original shares. Moreover, members of rural collective economic organizations are equal in the distribution of shares, regardless of whether they are rich or poor, young or male or female. The equality here is not only equality in shares or equality in rights. For example, when more shares are obtained through inheritance and other means in the later period, the principle of "one person, one vote" should also be observed. Just because they get more shares, they cannot have more voting rights; The share division of the members of the rural collective

economic organization is still one-time. Once the right is confirmed and the shares are confirmed, the share division can start. The share inheritance will only affect the internal share of the family, and will not affect the interests of members of other collective economic organizations. The shares of members of rural collective economic organizations can not be disposed of at will. Different from the shares of general industrial and commercial enterprises, such shares are not privately owned by an individual but collectively owned. Therefore, as public assets, collective members cannot enjoy the right to claim for division. So it can't be defined simply as the private property of citizens; The collective asset equity has no residual claim right, the collective asset management is not completely profit-oriented, and the residual benefits of its liquidation will not be distributed to the collective members.

2.2. The particularity of share inheritance of members of rural collective economic organizations

2.2.1. The particularity of share inheritance of rural collective economic organization members compared with general share inheritance

First of all, the inheritance of the share of the members of the rural collective economic organization has the particularity of identity. Collective assets are managed by collective economic organizations, and their shares are also the scope of management of collective economic organizations, which itself has the identity of acquisition. Therefore, the inheritance of collective assets equity should not only determine the successor according to the Inheritance Law, but also determine whether it belongs to the members of the collective economic organization, and different heirs have different inheritance rights.

Secondly, the share inheritance of members of rural collective economic organizations has the maximum limit. Because equality is related to division at one time, the shares of each organization member are equal when they are initially acquired, and after the inheritance of shares, the distribution of shares also changes with each other.[2] Therefore, if the maximum number of shares that a collective member can have is not limited, Allowing the disorderly and random circulation of collective assets shares between collective members and non-collective members will lead to greater differences in the number of shares held by each collective member, which goes against the original intention of share distribution, and may lose the social security role of collective land. Therefore, it is necessary to limit the maximum number of shares inherited by members of rural collective economic organizations.

Thirdly, the scope of the rights of the members of the rural collective economic organization after inheriting the shares is also limited. Because the shares of members of rural collective economic organizations are firmly bound to their identities, the owners of shares cannot dispose of their shares at will. Therefore, the share inheritance of members of rural collective economic organizations should also be different from the inheritance of general property, subject to more restrictions, and the transfer of inheritance shares should also comply with the rules of equity transfer. At the same time, the shares of collective assets do not have residual claims like ordinary companies, and the inheritance of the shares of collective assets is not a simple property right. After the succession of shares, the heirs will become members of the collective economic organization. If the collective economic organization is dissolved, the shares cannot be the basis for the distribution of surplus value, and the collective assets owned by the collective assets are still owned by the collective.

2.2.2. The particularity of share inheritance of members of rural collective economic organizations compared with inheritance of other rural assets

The difference between the share inheritance of rural collective economic organization members and the inheritance of the right to the use of homestead is that in the inheritance of the right to the use of homestead, if the house attached to the homestead has been damaged, the right to the use of the homestead will be recovered to the collective and the inheritance

relationship will no longer occur. However, the inheritance of the shares of the members of the rural collective economic organization is continuous and can occur all the time. In some areas, the part of the shares can be returned to the collective only when there is no heir. In addition, there are differences between the inheritance of shares of members of rural collective economic organizations and the inheritance of contracted land management rights, because the contracted land management rights are contracted to the household, so when the death of a collective member in the household, as long as the household still exists, The land contract management right will not be inherited or changed, but the share of members of rural collective economic organizations has identity and can be inherited.[3]

3. An empirical study on judicial cases of share inheritance of members of rural collective economic organizations

Due to the lag of legislation, there is a great dispute between academia and practice about the succession of collective members' shares. Through case empirical research and theoretical discussion, it is helpful to solve the problem of collective member share inheritance which is closely concerned with the members of rural collective economic organizations, and provide help for the improvement of future legislation in related fields.

Rural collective economic organizations have become an important part of rural economy, and the cases of disputes over collective members' share succession have sprung up all over the country. In this case database search, to the rural collective economic organization "inherited members share" as the keyword search in recent years, the judicial precedent, Collected 132 representative relevant civil judgment documents, combined with the combing of relevant theories, summed up the real pattern of collective member share inheritance in practice, which is conducive to identifying the key to judicial solution of the problem, and provide a certain reference for judicial practice.

According to the data, between 2019 and 2021, the cases containing the words "rural collective economic organizations" and "member share inheritance" in the full text increased year by year, with 19 cases in 2019, 25 cases in 2020, and 34 cases in 2021. It can be found that "rural collective economic organization" and "member share inheritance" may appear in various parts of the full text, including the parties' paragraph of the judgment document, the litigation record part, the fact part or the reason part, and even the judgment basis part. After 2022, the cases containing the words "rural collective economic organization" and "member share inheritance" in the full text have declined, with 28 cases in 2022, 18 cases in 2023, and 8 cases in 2024. Among them, the number of disputes caused by uncertain forms of inheritance, unclear rules of rural collective property rights transfer, and unclear procedures of rural collective economic organization members' share inheritance accounted for 90% of the total cases, accounting for 38%, 31%, and 21% respectively.

4. The origin of the dispute over the share inheritance of members of rural collective economic organizations

4.1. The form of inheritance is uncertain

Since the legislation has not made specific provisions on the inheritance of collective shares, there are many differences between the academic and practical circles on whether collective shares can be inherited, who should inherit them, and what rights can be inherited. As a result, the application of norms and the result of judgment are extremely inconsistent, which will inevitably lead to the ambiguity of civil subjects on the predictability of law. In the cases collected in this paper, the proportion of litigation disputes arising from the uncertain form of inheritance is the largest, accounting for 38%. At present, Legislative department has not made

a special guiding ideology on the qualification of collective members, the identification of membership involves the rights and interests of villagers, if there is no unified standard to regulate the identification of collective membership, then the reform of collective assets and shares cooperation system can not be carried out smoothly.[4] At the same time, there are differences in the scope of rights of inheritable shares. When non-collective members inherit, the shares they obtain can bring economic benefits of dividends, but whether this part of the share has the right to vote is still not unified in local practices, such as "(2019) Bj 03 Min End 7394" and "(2019) E 0106 Min Early 14278". The Two both directly quantified collective asset equity as assets and regarded it as a separate property right, but there were still differences among the courts on the details. For example, in the case of Hubei Province, the court quantified the share of the decedent to more than 120,000 yuan, and then divided it according to the principle of inheritance treatment, which was only property equity. No other rights and interests are involved, the focus of the court's trial is to deal with the issue of inheritance, and the particularity of collective assets share inheritance is not highlighted in the trial, which is also due to the imperfect system and the unclear boundary of collective assets equity rights.

4.2. The circulation rules of rural collective property rights are unclear

In order to prevent the occurrence of monopolizing the right to speak, in current local practice, the focus is mostly on limiting the share of members in the collective to the proportion of the whole. However, with the turnover of shares, the proportion of neglected non-collective members in the shares may become larger and larger. Such cases account for about 31% of the typical cases collected in this paper, which shows the importance of such cases. If there is no limit on the proportion of shares held by non-members of the collective, it may occur that the collective resources are concentrated in the hands of a few people, which will cause the collective assets to lose their basic social security function. If we do not limit the amount and scope of collective asset share inheritance, it will result in the substantive degree of collective asset equity, it will cause the ownership of collective asset to exist in name, and it will affect the equity equality of new and old collective members. If the share of collective assets is allowed to concentrate in the hands of a few people based on inheritance, it will have an impact on the collective economic organization ownership system of collective assets, so it is urgent to put forward a limit on the proportion of shares held by non-collective members.

4.3. The procedure of share inheritance of members of rural collective economic organizations is unclear

The inheritance of the shares of the members of the rural collective economic organization is related to the interests of all the collective members and heirs, but the current procedures of the succession of the shares of the members of the rural collective economic organization in our country are very unclear, which is easy to make the rights of the heirs are not protected, or the rights of other collective members are damaged. At the same time, the dispute over whether the collective share management body should authorize the collective economic organization still exists, so the perfect study of succession procedures needs to be solved. Such cases account for about 21% in the typical case base collected in this paper. First of all, we must confirm the subject of collective asset share management to analyze its inheritance process, because the subject of management directly determines the identity of the heir and other issues. The share inheritance of members of rural collective economic organizations involves the vital interests of many people, such as heirs, collective members and even non-collective members. If there are problems such as imperfect succession procedures in succession, the rights of heirs will not be protected or the rights and interests of other collective members will be violated. At the same time, there are some differences in the specific process of succession and whether collective economic organizations should be granted the qualification of self-management. Moreover,

there is no uniform approach to the issues such as when the succession procedures should be handled and when the succession should take effect.

5. Suggestions on perfecting the inheritance process of rural collective economic organization members' shares

5.1. Define the scope of the heir

Inheritance is the right of everyone, and the shares of collective economic organizations fully comply with the rules of inheritability stipulated in the Civil Code, and the documents have repeatedly made it clear that the shares of collective economic organizations can be inherited. On the basis of the collective share can be inherited, combined with the judicial practice in various places, it is particularly necessary to determine the scope of the successor. Among them, the problems that should be addressed include: whether non-collective members can inherit collective shares, and what rights non-collective members can inherit. Collective asset equity is a new type of property right, which itself has possession, use, income, disposition, inheritance, etc.[5] Therefore, non-collective members should have the right to inherit collective shares, but the status rights should not be inherited when inheriting, because the purpose of the existence of collective economic organizations is to protect the basic needs of collective members. The implementation of identity rights such as voting rights is related to the fundamental interests of the collective and requires long-term development, so voting rights should only be possessed by members of the collective. The author believes that it is not necessary to restrict the inheritance right of non-members of the collective, and it is clear that non-members of the collective should also have the inheritance right. Therefore, clarifying the scope of heirs helps to maintain the continuity of private property rights in the process of practice, so as to ensure that the production relations based on private ownership will not change, and can reduce the problem of "same case and different judgment" caused by the uncertainty of the scope of heirs in judicial practice.

5.2. Clarify the proportional limit on the inheritance share of non-collective members

At present, the restrictions on the proportion of collective shares owned by members are mostly targeted at collective members, while the restrictions on non-collective members are not much. The restrictions should be made according to households or artificial units, and the restrictions on the proportion of shares should be limited only by local regulations or laws, and how to deal with the limits when the shares exceed the limits are still controversial. The current judicial adjudication is also very inconsistent, so it should be raised to the judicial level, combined with judicial practice to unify the rules to determine the proportion limit of non-collective members' inheritance shares. In the system setting of collective assets equity inheritance, it is also necessary to take into account the maximum amount of the problem, clarify the maximum amount of share inheritance, and set the maximum amount of share inheritance according to the specific local conditions, generally the qualified share inherited by a single shareholder cannot exceed 1% of the entire collective, and collective economic organizations publicize the amount of equity of collective members every three years. The shares inherited beyond the maximum amount may be repurchased by the successor or by the collective economic organization in accordance with its authority.

5.3. Improve the succession process

Disputes arising from incomplete succession procedures account for about 21% of the total number of cases, of which more than half are intensified by the absence of management institutions, or can be avoided in advance if there is a clear management institution.[6] Therefore, it is necessary to clarify the management institution and its status and functions of

collective asset share inheritance. After analyzing the case, the author found that there is still a one-word phenomenon in the current rural collective society, and many villagers do not know that they have the right to vote. Therefore, the author proposed to give greater play to the advantages of collective negotiation in the inheritance of rural collective assets shares, and to ensure that there are rules and regulations, and negotiation is necessary if there are no rules and regulations. The majority opinion is adopted. Secondly, it is necessary to clarify the specific process of collective asset equity inheritance, and make clear provisions on the inheritance procedure in the system setting to ensure that there are unified local norms that can be implemented with reference. For example, when the succession procedure is carried out, the benefits can be handed over to the village collective for preservation, and the collective can vote collectively, review materials, make decisions and make public within a certain period after receiving the application of the heir.

6. Conclusion

The research on share inheritance of rural collective economic organizations is particularly important for the development of collective economic organizations in China, and also has great significance for the market-oriented reform of collective assets. Since the Decision of Several Major Issues on Comprehensively Deepening Reform made by the somebody indicated that the share of collective assets should have the right of inheritance, Various localities have also issued relevant regulations on share inheritance of collective economic organizations. However, through the analysis of 132 typical cases collected from the "China Judgment Documents Network", this paper finds that in recent years, due to the lack of uniform laws and regulations, local courts have made different judgments in practice. Through the analysis of these 132 cases, it is found that, first of all, At present, the legislation has not stipulated the scope of the successor, resulting in the judicial practice to expand or limit the scope of the successor of the same case and different judgments. Secondly, whether there is a limit to the proportion of inherited shares in the total share is controversial, and further analysis is needed. Finally, the current succession procedure is still not perfect, and relevant laws and regulations are not specific enough, and the rights of heirs can not be protected or infringe on other members of the organization. After a detailed analysis of typical cases, this paper gives some suggestions on clarifying the scope of heirs, clarifying the proportion limit of non-collective members' inheritance shares, and improving the procedure of inheritance, in order to provide some help for judicial practice.

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